STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED June 19, 2007
v	No. 268949 Wayne Circuit Court
STANLEY BRIDGES, Defendant-Appellant.	LC Nos. 05-009331-01 05-009332-01

Before: Meter, P.J., and Kelly and Fort Hood, JJ.

PER CURIAM.

Defendant appeals as of right from jury convictions of two counts of uttering and publishing, MCL 750.249, for which he was sentenced to two concurrent prison terms of 1 to 14 years each. We affirm.

Defendant first assigns error to the trial court's denial of his motion to dismiss under the 180-day rule, MCL 780.131(1). Statutory interpretation is a question of law that is reviewed de novo on appeal. *Van Reken v Darden, Neef & Heitsch,* 259 Mich App 454, 456; 674 NW2d 731 (2003). The trial court's attributions of delay for purposes of the 180-day rule are reviewed for clear error. *People v Crawford,* 232 Mich App 608, 612; 591 NW2d 669 (1998).

Pursuant to MCL 780.131(1), whenever the department of corrections receives notice of pending criminal charges for which a prison sentence might be imposed against an inmate, "the inmate shall be brought to trial within 180 days after the department of corrections causes to be delivered to the prosecuting attorney . . . written notice of the place of imprisonment of the inmate and a request for final disposition of the" charges. In the event "action is not commenced on the matter" within the 180-day period, the court loses jurisdiction over the charges. MCL 780.133.

We agree that the trial court erred in holding that the statute was inapplicable to defendant because he committed the crimes while on parole. *People v Cleveland Williams,* 475 Mich 245, 248, 255; 716 NW2d 208 (2006). However, the record shows that the prosecutor made a good-faith effort to ready this case for trial after the Department of Corrections delivered the request for disposition. The request was sent on June 27, 2005, and the 180-day period expired on December 27, 2005. In the interim, a preliminary examination was held and defendant was arraigned in circuit court in September 2005, and the court set a trial date at the October 2005 pretrial conference. This Court has held that "[w]here a defendant's preliminary

examination begins within the 180-day limitation period and there is no showing of lack of good faith on the part of the prosecution in proceeding promptly towards trial, reversal is not required." *People v Finley*, 177 Mich App 215, 219-200; 441 NW2d 774 (1989). Further, while trial did not commence until 30 days after December 27, 2005, defendant was responsible for at least 32 days of the delay.[1] Excluding that time brings the trial date within the 180-day period. See *Crawford, supra* at 613-615. Therefore, the 180-day rule was not violated.

Defendant next assigns error to the trial court's ruling on an evidentiary issue which prevented a defense witness from testifying. The trial court's ruling regarding the admission of evidence is reviewed for an abuse of discretion. *People v Hine*, 467 Mich 242, 250; 650 NW2d 659 (2002). "An abuse of discretion occurs when the decision results in an outcome falling outside the principled range of outcomes." *Woodard v Custer*, 476 Mich 545, 557; 719 NW2d 842 (2006). This Court reviews de novo whether a defendant was denied the right to present a defense. *People v Kurr*, 253 Mich App 317, 327; 654 NW2d 651 (2002).

The trial court excluded the witness's testimony as irrelevant. In general, only relevant evidence is admissible. MRE 402. Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." MRE 401.

It was defendant's theory of the case that Tremayne Washington hired him to do electrical work on a commercial building and that Washington represented that he and the victim were partners and that defendant would be paid by check, the implication being that Washington delivered the forged checks to defendant as payment for his services. Defendant sought to call Mark Anderson, who worked across the street from the commercial building, to testify that Washington wanted work done on his building and had seen defendant there with Washington and speaking to him. However, evidence that Washington claimed to be a partner of the victim, that he hired defendant to do work for them, and that he would pay defendant by check was never introduced. The only evidence that touched on the subject was defendant's statement to the bank teller that "that he did some work and he was being paid." Anderson's testimony that he had seen defendant at the building speaking with Washington would not tend to show that Washington hired defendant to perform work there or that defendant received the checks from Washington as compensation. Further, while it is unclear if Anderson actually overheard any conversation between defendant and Washington, it appears that any testimony he might have offered regarding the statements made by either man would be inadmissible hearsay. MRE 801. Finally, even assuming that Anderson could testify that Washington wanted to employ defendant, such evidence would not tend to prove that Washington had paid defendant with the forged checks. Therefore, the evidence was not relevant and the trial court did not abuse its discretion in excluding it from trial.

[1] Defendant was responsible for the adjournment of the September 30, 2005, pretrial to October 4, 2005 (defense counsel unavailable), and the delay of the final conference from November 4, 2005, to December 2, 2005 (defendant's failure to file his motions until after the November 4 cut-off date for hearing motions).

Defendant contends that the exclusion of Anderson's testimony impermissibly infringed on his right to present a defense. It is true that a defendant has a constitutional right to present a defense. *People v Hayes*, 421 Mich 271, 278; 364 NW2d 635 (1984). This includes the right to call witnesses to establish that defense. *Id.* at 278-279. However, that right does not excuse a defendant from complying with the rules of evidence, except perhaps where the rules are deemed "mechanical or arbitrary." See *People v Carpenter*, 464 Mich 223, 244; 627 NW2d 276 (2001) (Kelly, J., dissenting). Limiting the admission of evidence to that which is relevant is neither mechanical nor arbitrary, and Anderson's proposed testimony was not, in light of the evidence presented, relevant to defendant's defense.

Affirmed.

/s/ Patrick M. Meter
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood